

December 8, 2020

Dear Mr. Willis:

Please find attached documentation certified by Jaclyn Hartman, Chief Financial Officer, Maryland Department of Transportation regarding the use of aviation fuel taxes for FY2020. I have also enclosed a copy of the FY 2019 documentation that we prepared last year but you did not receive.

Should you have any additional questions do not hesitate to call me at 410-859-7969 or at jwalsh1@bwiairport.com.

Sincerely,



James G. Walsh, A.A.E.
Chief Financial Officer

December 7, 2020

Mr. Kevin C. Willis
Director, Office of Airport Compliance and Management Analysis
Federal Aviation Administration
800 Independence Avenue, SW
Washington, DC 20591

RE: Documentation of Use of Aviation Fuel Tax in 2020

Dear Mr. Willis:

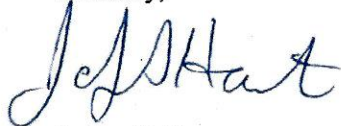
In a letter to you dated July 31, 2019, the Maryland Department of Transportation (MDOT) Maryland Aviation Administration (MAA) proposed that it would send to the Federal Aviation Administration a report each year comparing Aviation Fuel Tax received by the Maryland Transportation Trust Fund (TTF) to expenditures made for Regional Aviation grants to ensure that Regional Aviation Grant expenditures exceeded Aviation Fuel Tax revenue each fiscal year. This proposal was made to the FAA as part of MDOT MAA's proposal of documentation to ensure that MDOT MAA has a review process by which it tracks revenues from the Aviation Fuel Tax and any offsets spent as provided for by the Federal Aviation Administration's revenue use requirements. In accordance with the proposal from the letter on July 31, 2019, I have reviewed and certify the following per MDOT MAA's financial records:

- The amount of Aviation Fuel Tax funding collected by the Comptroller's Office through the sale of aviation fuel within the State of Maryland and transferred to the TTF for FY 2020 was \$637,004.
- The amount of funding expended by the TTF to fund Regional Aviation Grants used for public use airports in FY 2020 was \$2,537,519.

Due to the excess of funding expended for Regional Aviation Grants over the amount deposited into the TTF from the Aviation Fuel Tax, all proceeds deposited into the TTF from Aviation Fuel Taxes in FY 2020 were used to support aviation.

If you need any additional information, please email me at jhartman1@mdot.maryland.gov or call me at (410) 865-1035.

Sincerely,



Jaclyn D. Hartman
Chief Financial Officer

Attachments

cc: Ricky D. Smith, Executive Director, Maryland Aviation Administration
James G. Walsh, A.A.E., Chief Financial Officer, Maryland Aviation Administration

November 21, 2019

Mr. Kevin C. Willis
Director, Office of Airport Compliance and Management Analysis
Federal Aviation Administration
800 Independence Avenue, SW
Washington, DC 20591

RE: Documentation of Use of Aviation Fuel Tax in 2019

Dear Mr. Willis:

In a letter to you dated July 31, 2019, the Maryland Department of Transportation (MDOT) Maryland Aviation Administration (MAA) proposed that it would send to the Federal Aviation Administration a report each year comparing Aviation Fuel Tax received by the Maryland Transportation Trust Fund to expenditures made for Regional Aviation grants to ensure that Regional Aviation Grant expenditures exceeded Aviation Fuel Tax revenue each fiscal year. This proposal was made to the FAA as part of MDOT MAA's proposal of documentation to ensure that MDOT MAA has a review process by which it tracks revenues from the Aviation Fuel Tax and any offsets spent as provide for by the Federal Aviation Administration's revenue use requirements. In accordance with the proposal from the July 31, 2019 letter, I have reviewed and certify the following per MDOT MAA's financial records:

The amount of Aviation Fuel Tax funding collected by the Office of the Comptroller (Comptroller) through the sale of aviation fuel within the State of Maryland was transferred to MDOT's Transportation Trust Fund (TTF) for FY 2019 was as follows:

FY 2019 \$ 711,077

The amount of funding expended by the TTF to fund Regional Aviation Grants used for public use airports in FY 2019 was as follows:

FY2019 \$2,023,702

Mr. Kevin Willis
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Due to the excess of funding expended for Regional Aviation Grants over the amount deposited into the TTF from the Aviation Fuel Tax, all the proceeds deposited into the TTF from Aviation Fuel Taxes in FY 2019 were used to support aviation.

If you need any additional information to confirm this, please do not hesitate to call me at (410) 865-1035.

Sincerely,

A handwritten signature in blue ink, appearing to read 'J. Hartman', with a stylized, cursive script.

Jaclyn Hartman
Chief Financial Officer,
Maryland Department of Transportation

Attachments

cc: Ricky D. Smith, Executive Director, Maryland Aviation Administration
James G. Walsh, A.A.E., Chief Financial Officer, Maryland Aviation Administration

July 31, 2019

Via Email and Federal Express

Mr. Kevin C. Willis
Director, Office of Airport Compliance and Management Analysis
Federal Aviation Administration
800 Independence Avenue, SW
Washington DC 20591

Dear Mr. Willis:

Thank you for your letter of June 20, 2019, following up on your December 19, 2017, letter acknowledging the State of Maryland's action plan in response to the Federal Aviation Administration (FAA) Aviation Fuel Tax Policy Amendment. As you know, those letters responded to Maryland's April 21, 2016, letter setting forth Maryland's position that Maryland was in compliance with the FAA "Policy and Procedures Concerning the Use of Airport Revenue: Proceeds from Taxes on Aviation Fuel (79 Fed. Reg. 6682 Nov. 7, 2014) (the Policy). Your December 19, 2017 letter requested additional information to help complete your review of Maryland's position. Specifically, you requested the following regarding the history and current practices of the Maryland's aviation fuel tax:

- Item 1. Legislation initially establishing the tax, including the original tax rate
- Item 2. Legislation establishing any rate changes between the date of the original levy and the present date
- Item 3. Legislation clarifying the use of tax revenue, including any revenue use changes between the date of the original levy and the present date
- Item 4. Financial documentation that revenues in 2014 and 2015 were used as established by the tax and in a way that is compliant with fuel tax revenue use requirements
- Item 5. Documentation ensuring that the State has developed a review process by which it will track revenues from any taxes on aviation fuel by local jurisdiction, expenditures of any taxes on airports or, if applicable, offsets in equivalent or greater amounts to those earned through any taxes on aviation fuel, and documentation ensuring that the State has developed reporting and enforcement mechanisms for its review process
- Item 6. The amount of the offset (i.e. the amount spent by the state government directly on airports or on a state aviation fund) is greater than or equal to the total revenue from the fuel tax each year.
- Item 7. Documentation has been provided that the government body collecting the fuel tax has the authority to offset revenues in this way.

Item 8. Documentation has been provided ensuring that the State has developed a review process by which it will track revenues from any taxes on aviation fuel, offsets spent on the airport, and documentation has been provided ensuring that the State has developed reporting and enforcement mechanisms for its offset process.

Maryland is pleased to provide the requested information and believes that this information, together with the information previously provided, demonstrates that Maryland is full compliance with the Policy.

Items 1-3: Aviation Fuel Tax Legislation

You requested copies of the Maryland legislation that initially established the Aviation Fuel Tax in Maryland, establishing any rate changes between the original levy of the tax and the present date, and addressing the use of that tax revenue. Table 1 below summarizes that legislation and the Aviation Fuel Tax over these years:

| Date | Aviation Fuel Tax Imposed | Statutory Authority |
|--------------|---------------------------|--|
| 1980 | 3 cents | 1980 Md. Laws 734 (Attachment 1) |
| June 1, 1982 | 5 cents | 1982 Md. Laws 238 (Attachment 2) |
| June 1, 1983 | 7.5 cents | 1982 Md. Laws 238 (Attachment 2) |
| 1984 | 4 cents | 1984 Md. Laws 662 (Attachment 3) |
| 1987 | 5 cents | 1987 Md. Laws 291 (Attachment 4) |
| 1992 | 7 cents | 1992 Md. Laws 3 (First Special Session) (Attachment 5) |

By way of explanation, and as previously discussed in my letter of April 21, 2016, Maryland began collecting tax on aviation fuel in 1980. *See* 1980 Md. Laws. 734 (Attachment 1). Prior to 1980, although Maryland maintained a motor vehicle fuel tax of nine (9) cents per gallon, the statute provided for a rebate or refund of 100% of the tax as applied to aviation fuel. In 1980, Maryland reduced the Aviation Fuel Tax rebate from the full nine (9) cents per gallon to six (6) cents per gallon, resulting in a tax on aviation fuel of three (3) cents per gallon. *Id.* By statute, the proceeds from the tax were deposited into the Transportation Trust Fund (TTF).¹ *See* 1980 Md. Laws 734 at page 2542 (Attachment 1).

Between 1982 and 1983, Maryland's motor vehicle fuel tax was increased by four and one half (4.5) cents from nine (9) cents to thirteen and one half (13.5) cents. The increase was imposed as

¹ The TTF was created in 1971 as a dedicated fund to pay for the activities of the Maryland Department of Transportation (MDOT). Md. Code Ann., Transportation §3-216. Except as otherwise expressly provided by statute, all taxes, fees, charges, and revenues collected or received by or paid, appropriated, or credited to the account of MDOT or any of MDOT's units (including the Maryland Aviation Administration (MAA)) in the exercise of their rights, powers, duties, or obligations, are to be remitted to the Transportation Trust Fund. *Id.* Ultimately the funds placed into the TTF are used to pay the obligations and expenditures of MDOT and its modal agencies, including MAA.

follows: Two (2) cents on June 1, 1982; and two and a half (2.5) cents on June 1, 1983. *See* 1982 MD Laws 238 (Attachment 2). However, the rebate for aviation fuel remained at six (6) cents per gallon. Thus, the Aviation Fuel Tax on June 1, 1982 was five (5) cents (*i.e.*, the eleven (11) cent tax minus the six (6) cent rebate); and on June 1, 1983 it increased to seven and a half (7.5) cents (*i.e.*, the thirteen and one half (13.5) cent tax minus the six (6) cent rebate). *Id.* The requirement that the proceeds from the tax to be paid into the TTF remained unchanged. *See* 1982 Md. Laws 238 at page 1768 (Attachment 2).

In 1984, Maryland adopted House Bill 996 which altered the aviation fuel rebate system and reduced the Aviation Fuel Tax from seven and one half (7.5) cents to four (4) cents. 1984 Md. Laws 662 (Attachment 3). The 1984 statute continued to require that net proceeds of the tax be credited to the TTF. *See* 1984 Md. Laws 662 at page 3215 (Attachment 3).

In 1987, the tax on aviation fuels increased to five (5) cents per gallon and the proceeds were still to be remitted to the TTF. *See* 1987 Md. Laws 291 (Attachment 4). Finally, in 1992 the tax on aviation fuels increased to seven (7) cents per gallon where it remains today. The proceeds from the tax are still remitted to the TTF, but the language requiring this was moved to the Tax General Article by the 1992 law. *See* 1992 Md. Laws 3 (First Special Session) (Attachment 5).

Based on the foregoing, a portion of Maryland's tax on aviation fuel is grandfathered. Specifically, of the current tax of seven (7) cents per gallon, five (5) cents per gallon is grandfathered because that was the aviation fuel tax in effect on December 31, 1987. Two (2) cents per gallon of the aviation fuel tax is not grandfathered because that additional tax was adopted after December 31, 1987.

Item 4: Documentation Regarding Use of Revenues in 2014 and 2015 as Established by Law and In Compliance with the Policy.

The attached letter from Ms. Jaclyn Hartman, Chief Financial Officer, Maryland Department of Transportation (MDOT), certifies that the revenues from the Aviation Fuel Tax in 2014 through 2018 were used as established by the tax and in compliance with the fuel tax revenue use requirements (Attachment 6). To further show how the aviation fuel tax proceeds are allocated to the TTF, attached are the Motor Fuel Tax and Motor Carrier Tax Annual Reports for FY 2014 through FY 2018, prepared by the Comptroller of Maryland (Attachments 7 and 8). Please note that the lower half of pages of the Reports provided depict the Revenue and Distribution Summary that includes the Aviation Fuel Tax distribution to the TTF.

Item 5: Documentation of Review Process for Aviation Fuels Taxes Collected by Local Governments.

The State Aviation Fuel Tax is the only tax on aviation fuel in Maryland. Local jurisdictions do not collect taxes on aviation fuel. Accordingly, there is no need for Maryland to create a review process for aviation fuel taxes collected by local jurisdictions.

Item 6: Documentation Showing that the Amount of the Offset Is Greater Than Aviation Fuel Tax Revenue.

As depicted in the table below, the amount of TTF funds spent by the Maryland Aviation Administration (MAA) on airports in Maryland (the Offset) is greater than the aviation fuel tax deposits into the TTF. The table compares the amount of aviation fuel tax deposited in the TTF to the amount the TTF spent on Regional Aviation Assistance Grants for FY 2014 through FY 2018 (Attachment 8) and shows the substantial Offset:

| Year | Aviation Fuel Tax Revenue Deposited Into the TTF ² | Expenditures From the TTF for Regional Aviation Assistance Program Grants ³ | Amount of Offset |
|------|---|--|------------------|
| 2014 | \$1,016,824 | \$3,461,303 | +\$2,444,479 |
| 2015 | \$1,076,002 | \$2,983,551 | +\$1,907,549 |
| 2016 | \$ 832,316 | \$2,016,729 | +\$1,184,413 |
| 2017 | \$1,198,783 | \$2,850,711 | +\$1,651,928 |
| 2018 | \$ 796,293 | \$3,311,338 | +\$2,515,045 |

This comparison shows that that TTF expenditures on airport uses far exceeded revenue from aviation fuel tax. *See also* the certification from Ms. Jaclyn Hartman (Attachment 6). Further, the aviation fuel tax revenue reported on Attachments 7 and 8 are the *total* aviation fuel tax revenue, not just the two (2) cent portion that is not grandfathered. Because the non-grandfathered portion of the aviation fuel tax is approximately 29% of the total aviation fuel tax, the Offset is much greater:

| Year | Aviation Fuel Tax Revenue Deposited Into the TTF ⁴ | Non-Grandfathered Aviation Fuel Tax Revenue Deposited Into the TTF | Expenditures From the TTF for Regional Aviation Assistance Program Grants ⁵ | Amount of Offset from Non-Grandfathered Aviation Fuel Taxes |
|------|---|--|--|---|
| 2014 | \$1,016,824 | \$294,879 | \$3,461,303 | +\$3,166,424 |
| 2015 | \$1,076,002 | \$312,041 | \$2,983,551 | +\$2,671,510 |
| 2016 | \$ 832,316 | \$241,372 | \$2,016,729 | +\$1,775,357 |
| 2017 | \$1,198,783 | \$347,647 | \$2,850,711 | +\$2,503,064 |
| 2018 | \$ 796,293 | \$230,925 | \$3,311,338 | +\$3,080,410 |

² Motor Fuel Tax and Motor Carrier Tax (IFTA) Annual Report Fiscal Years 2014 through 2018 (Attachment 7).

³ The Authorized Appropriation and Actual Expenditures report for 2014 through 2018 were obtained from MDOT MAA's Financial Management Information System. *See* Attachment 8.

⁴ Motor Fuel Tax and Motor Carrier Tax (IFTA) Annual Report Fiscal Years 2014 through 2018 (Attachment 7).

⁵ The Authorized Appropriation and Actual Expenditures report for 2014 through 2018 were obtained from MDOT MAA's Financial Management Information System. *See* Attachment 8.

Item 7: Documentation of Authority to Offset Revenues

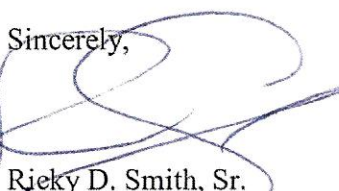
As detailed above, Maryland offsets aviation fuel tax revenue paid into the TTF by using TTF funds to make Regional Aviation Assistance Grants for regional airport purposes in annual amounts that far exceed aviation fuel tax revenues. Maryland Transportation Code § 3-216(d) authorizes the Department of Transportation to use funds in the TTF for "any lawful purpose related to the exercise of its rights, powers, duties, and obligations" (Attachment 9). Maryland makes Regional Aviation Assistance Grants pursuant to the authority granted to the Secretary of the Department of Transportation under Maryland Transportation Code § 2-103(i) to make grants in aid for transportation purposes (Attachment 10). In addition, Maryland Transportation Code § 5-204(c) authorizes the Secretary of Transportation to encourage and support aeronautics in Maryland, providing further authority to make Regional Aviation Assistance Grants (Attachment 11). Accordingly, Maryland is authorized to make Regional Aviation Assistance Grants from the TTF in amounts that exceed revenue received from aviation fuel tax revenues.

Item 8: Documentation of Review Process for Offset Process

As set forth in the certification from Ms. Jaclyn Hartman (Attachment 6), the Maryland Aviation Administration (MAA) will, on an annual basis, provide to the FAA a report comparing aviation fuel tax revenue received by the TTF to expenditures for Regional Aviation Grants to assure that Regional Aviation Grant expenditures exceed Aviation Fuel Tax revenues each fiscal year. That report will be provided on an annual basis within 120 days of the closure of our fiscal year ending June 30th.

Maryland believes that the forgoing information responds to your request for additional information and further demonstrates that Maryland is in compliance with the Policy. If you have any questions or if you need additional information, please contact James G. Walsh, A.A.E. at 410-859-7969.

Sincerely,



Rieky D. Smith, Sr.
Executive Director
Maryland Aviation Administration

Attachments

cc: Jaclyn Hartman, Chief Financial Officer, Maryland Department of Transportation
James G. Walsh, Chief Financial Officer, Maryland Aviation Administration

Mr. Kevin Willis
Page Five

bcc: Mr. Patrick Bradley, Director, Office of Finance, MDOT MAA
Ms. Louisa Goldstein, Counsel, MDOT MAA
Ms. Renee Larkins, Chief, Executive Assistant to the Executive Director, MDOT MAA
Mr. Robert Sager, Assistant Attorney General, MDOT MAA
Mr. James Walsh, A.A.E., CFO, Chief, Business Development and Management, MDOT
MAA